

RESOLUTION NO.

WHEREAS, the City of Austin (“City”) is a regulatory authority under the Gas Utility Regulatory Act (“GURA”) and under § 103.001 of GURA has exclusive original jurisdiction over Atmos Energy Corporation – Mid-Tex Division (“Atmos”) rates, operations, and services within the municipality; and

WHEREAS, the City has participated in prior cases regarding Atmos as a part of a coalition of cities known as the Atmos Texas Municipalities (“ATM”), including Railroad Commission Gas Utilities (“GUD”) Docket No. 9400, numerous filings by Atmos pursuant to Section 104.301 of GURA, and GUD Docket No. 9670; and

WHEREAS, Atmos filed a Statement of Intent with the City on or about September 20, 2007 to increase its system-wide annual revenue requirement by approximately \$51.9 million; and

WHEREAS, the City has, by Ordinance No. 20071018-31, denied the requested rate increase, authorized participation in ATM and authorized the hiring of lawyers and rate experts; and

WHEREAS, Atmos has appealed Ordinance No. 20071018-31 to the Railroad Commission of Texas, which has docketed the appeal along with other appeals as GUD No. 9762; and

WHEREAS, ATM has conducted extensive discovery upon Atmos and has engaged in extensive negotiations regarding the appropriate rates and rate structure for Atmos; and

WHEREAS, Atmos and ATM have entered into a Settlement Agreement resolving all disputes regarding the appropriate rates, terms and conditions for Atmos; and

WHEREAS, Atmos and ATM have determined that the best method to implement such settlement agreement is to have it approved by each ATM city; and

WHEREAS, in order for the City to examine the Settlement Agreement, it has reestablished its original jurisdiction over the rates of Atmos by issuing a Show Cause against Atmos; and

WHEREAS, the City has given reasonable notice to Atmos regarding the consideration of the Settlement Agreement; and

WHEREAS, the Settlement Agreement will resolve several previously-litigated cases and will resolve all issues currently pending before the Railroad Commission in GUD No. 9762; and

WHEREAS, the Settlement Agreement will result in Atmos receiving a \$10 million system-wide rate increase, which is significantly smaller than the \$51.9 million sought by Atmos; and

WHEREAS, the Settlement Agreement creates an expedited rate review process for a three-year trial period, called the Rate Review Mechanism (“RRM”) in lieu of the Section 104.301 filings, which will allow for

consideration of both increases and decreases in expenses and investments and will allow for increased participation by City regulators in future rate cases; and

WHEREAS, the RRM will also allow Atmos a greater opportunity to earn its authorized rate of return, but no more, by use of a “true-up” calculation contained within the RRM tariff; and

WHEREAS, the Settlement Agreement calls for a reduction in customer charges for residential and commercial customers; and

WHEREAS, the Settlement Agreement excludes specified expenses from recovery by Atmos; and

WHEREAS, the Settlement Agreement contains a “most-favored-nations” clause that provides the City with the benefit of any other RRM settlement or any other settlement of the issues related to the September 20, 2007 Statement of Intent or GUD No. 9672, under certain conditions; and

WHEREAS, the Settlement Agreement authorizes other changes in rates and tariffs that should enable Atmos to provide efficient service at reasonable rates and provides for the reimbursement of ATM expenses; and

WHEREAS, the Settlement Agreement provides for quarterly meetings between Atmos and City representatives in order to improve communication and cooperation; and

WHEREAS, the Settlement Agreement provides a mechanism for the City to amend or renew its franchise agreement with Atmos at 5% of Gross Revenues; and

WHEREAS, the Settlement Agreement resolves numerous cases currently pending on appeal and provides for payment to ATM associated with such cases; and

WHEREAS, the City desires to avoid the cost and uncertainty of litigating the cases at the Railroad Commission and the courts; and

WHEREAS, the ATM lawyers as well as numerous representatives from the ATM Cities have negotiated with Atmos on several occasions; and

WHEREAS, the ATM lawyers have recommended the approval of the Settlement Agreement; and

WHEREAS, the City has examined the Settlement Agreement and its attached tariffs, rates, terms and conditions; and

WHEREAS, the Settlement Agreement as a whole is consistent with the public interest; and

WHEREAS, the tariffs, rates, terms and conditions attached to the Settlement Agreement should be found to be just, reasonable and in the public interest, **NOW THEREFORE**,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

Section 1. That the statements set out in the preamble to this resolution are hereby in all things approved and adopted.

Section 2. Pursuant to Utilities Code Section 104.151, the City finds that the existing rates, terms and conditions of Atmos are unreasonable and determines that such rates, terms and conditions should be changed.

Section 3. The City finds that the Settlement Agreement, including the new tariffs therein, which is attached hereto and incorporated herein as Exhibit A, is in the public interest and is hereby endorsed and approved in all respects.

Section 4. The City finds that the new tariffs, which are incorporated into the Settlement Agreement, are just and reasonable and are hereby adopted.

Section 5. To the extent any resolution or ordinance previously adopted by the Council is inconsistent with this Resolution, it is hereby repealed.

Section 6. This resolution shall become effective from and after its passage with rates authorized by the new tariffs to be effective in accordance with the terms of the Settlement Agreement.

Section 7. A copy of this Resolution shall be sent to Atmos Mid-Tex, care of Joe T. Christian, Director of Rates, at Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1800, Dallas, Texas 75204, and to Jim Boyle, Counsel to

ATM, Herrera and Boyle, PLLC, 860 Congress Avenue, Suite 1120, Austin, TX
78701.

ADOPTED: _____, 2008 **ATTEST:** _____

Shirley A. Gentry
City Clerk

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